



STATE OF UTAH
DEPARTMENT OF COMMERCE
DIVISION OF REAL ESTATE

UTAH APPRAISER STATUTE

October 2005

TITLE 61, CHAPTER 2c.
REAL ESTATE APPRAISER LICENSING AND CERTIFICATION ACT

Section	Page
61-2b-1. Title.....	3
61-2b-2. Definitions.....	3
61-2b-3. License or certification required	4
61-2b-5. Chapter administration.....	5
61-2b-6. Duties and powers of division.....	5
61-2b-7. Board established -- Composition -- Qualifications -- Meeting -- Terms of office -- Expenses -- Quorum	7
61-2b-8. Duties of board.....	8
61-2b-9. Licensure or certification required -- Application	10
61-2b-10. (Superseded 01/01/08). State licensed appraiser -- Authority and qualifications.....	10
61-2b-10.5.State-registered appraisers -- Authority -- Transition to state-licensed or state- certified appraisers	11
61-2b-11. Curriculum to be determined by board	12
61-2b-13. State-certified appraisers -- Authority	12
61-2b-14. (Superseded 01/01/08). State-certified residential appraiser -- Application.....	12
61-2b-15. (Superseded 01/01/08). State-certified general appraiser -- Application -- Qualifications	13
61-2b-15.6.Conversion of senior appraisers to state-licensed appraisers	14
61-2b-16. Certification and licensing examinations.....	14
61-2b-17. State-certified and state-licensed appraisers -- Restrictions on use of terms -- Conduct prohibited or required -- Trainee.....	14
61-2b-18. Application for certification or licensure -- Registration as an expert witness.....	15
61-2b-19. Expiration of license or certification.....	16
61-2b-20. Renewal of license or certification	16
61-2b-21. Denial of licensure or certification	17
61-2b-22. Licensing, certification, or expert witness requirements for nonresidents -- Temporary license or certificate -- Revocation	17
61-2b-23. Reciprocal licensure.....	18
61-2b-24. Expert witness, licensing, or certification documents -- Assigned number to be used on contracts -- Surrender of documents upon suspension	18
61-2b-25. Other law unaffected.....	19
61-2b-26. Principal place of business -- Display of documents -- Notify of changes -- Nonresidents	19
61-2b-27. Professional conduct -- Uniform standards.....	19
61-2b-28. Enforcement -- Investigations -- Orders -- Hearings	20
61-2b-29. Disciplinary action -- Grounds.....	21
61-2b-30. Compliance with Administrative Procedures Act.....	22
61-2b-30.5.Reinstatement of license, certification -- Expert witness -- Trainee	22
61-2b-31. Disciplinary hearing process.....	22
61-2b-32. Licensure or certification prerequisite to suit for compensation	23
61-2b-33. Criminal penalty -- Licensure or certification following conviction	23
61-2b-34. Recordkeeping requirements	23

61-2b-36. Contingent fees	24
61-2b-37. Division service fees -- Federal registry fees.....	24
61-2b-38. Division to publish roster of appraisers	24
61-2b-39. License or certification history	24
61-2b-40. Continuing education requirements	25
61-2b-41. Consultation reports – Restrictions on use of terms	26

61-2b-1. Title.

This chapter is known as the "Real Estate Appraiser Licensing and Certification Act."

61-2b-2. Definitions.

(1) As used in this chapter:

- (a) (i) "Appraisal" means an unbiased analysis, opinion, or conclusion relating to the nature, quality, value, or utility of specified interests in, or aspects of, identified real estate or identified real property.
- (ii) An appraisal shall be classified by the nature of the assignment as a valuation appraisal, an analysis assignment, or a review assignment in accordance with the following definitions:
 - (A) "Valuation appraisal" means an unbiased analysis, opinion, or conclusion that estimates the value of an identified parcel of real estate or identified real property at a particular point in time.
 - (B) "Analysis assignment" means an unbiased analysis, opinion, or conclusion that relates to the nature, quality, or utility of identified real estate or identified real property.
 - (C) "Review assignment" means an unbiased analysis, opinion, or conclusion that forms an opinion as to the adequacy and appropriateness of a valuation appraisal or an analysis assignment.
- (b) "Appraisal Foundation" means the Appraisal Foundation that was incorporated as an Illinois not-for-profit corporation on November 30, 1987.
- (c) (i) "Appraisal report" means any communication, written or oral, of an appraisal.
- (ii) An appraisal report shall be classified by the nature of the assignment as a valuation report, analysis report, or review report in accordance with the definitions provided in Subsection (1)(a)(ii).
- (iii) The testimony of a person relating to the person's analyses, conclusions, or opinions concerning identified real estate or identified real property is considered to be an oral appraisal report.
- (d) "Board" means the Real Estate Appraiser Licensing and Certification Board that is established in Section 61-2b-7.
- (e) "Certified appraisal report" means a written or oral appraisal report that is certified by a state-certified general appraiser or state-certified residential appraiser.
- (f) (i) (A) "Consultation service" means an engagement to provide a real estate valuation service analysis, opinion, conclusion, or other service that does not fall within the definition of appraisal.
- (B) "Consultation service" does not mean a valuation appraisal, analysis assignment, or review assignment.
- (ii) Regardless of the intention of the client or employer, if a person prepares an unbiased analysis, opinion, or conclusion, the analysis, opinion, or conclusion is considered to be an appraisal and not a consultation service.

- (g) "Contingent fee" means a fee or other form of compensation, payment of which is dependent on or conditioned by:
 - (i) the reporting of a predetermined analysis, opinion, or conclusion by the person performing the analysis, opinion, or conclusion; or
 - (ii) achieving a result specified by the person requesting the analysis, opinion, or conclusion.
 - (h) "Division" means the Division of Real Estate of the Department of Commerce.
 - (i) "Federally related transaction" means any real estate related transaction that is required by federal law or by federal regulation to be supported by an appraisal prepared by:
 - (i) a state-licensed appraiser; or
 - (ii) a state-certified appraiser.
 - (j) "Real estate" means an identified parcel or tract of land including improvements if any.
 - (k) "Real estate appraisal activity" means the act or process of making an appraisal of real estate or real property and preparing an appraisal report.
 - (l) "Real estate related transaction" means:
 - (i) the sale, lease, purchase, investment in, or exchange of real property or an interest in real property, or the financing of such a transaction;
 - (ii) the refinancing of real property or an interest in real property; or
 - (iii) the use of real property or an interest in real property as security for a loan or investment, including mortgage-backed securities.
 - (m) "Real property" means one or more defined interests, benefits, or rights inherent in the ownership of real estate.
 - (n) "State-certified general appraiser" means a person who holds a current, valid certification as a state-certified general appraiser issued under this chapter.
 - (o) "State-certified residential appraiser" means a person who holds a current, valid certification as a state-certified residential real estate appraiser issued under this chapter.
 - (p) "State-licensed appraiser" means a person who holds a current, valid license as a state-licensed appraiser issued under this chapter.
 - (q) "State-registered appraiser" means a person who before May 3, 1999, was registered as an appraiser under this chapter.
 - (r) "Trainee" means an individual who:
 - (i) does not hold an appraiser license or appraiser certification issued under this chapter; and
 - (ii) works under the direct supervision of a state-licensed appraiser or state-certified appraiser to earn experience for licensure.
 - (s) "Unbiased analysis, opinion, or conclusion" means an analysis, opinion, or conclusion relating to the nature, quality, value, or utility of identified real estate or identified real property that is prepared by a person who is employed or retained to act, or would be perceived by third parties or the public as acting, as a disinterested third party in rendering the analysis, opinion, or conclusion.
- (2) (a) If a term not defined in this section is defined by rule, the term shall have the meaning established by the division by rule made in accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act.
- (b) If a term not defined in this section is not defined by rule, the term shall have the meaning commonly accepted in the business community.

61-2b-3. License or certification required.

(1) Except as provided in Subsection (2) and in Subsection 61-2b-6(2), it is unlawful for anyone to prepare, for valuable consideration, an appraisal, an appraisal report, a certified appraisal report, or perform a consultation service relating to real estate or real property in this state without first being licensed or certified in accordance with this chapter.

(2) This section does not apply to:

- (a) a real estate broker or sales agent as defined by Section 61-2-2 licensed by this state who, in the ordinary course of the real estate broker's or sales agent's business, gives an opinion:
 - (i) regarding the value of real estate;
 - (ii) to a potential seller or third party recommending a listing price of real estate; or
 - (iii) to a potential buyer or third party recommending a purchase price of real estate;
- (b) an employee of a company who states an opinion of value or prepares a report containing value conclusions relating to real estate or real property solely for the company's use;
- (c) any official or employee of a government agency while acting solely within the scope of the official's or employee's duties, unless otherwise required by Utah law;
- (d) an auditor or accountant who states an opinion of value or prepares a report containing value conclusions relating to real estate or real property while performing an audit;
- (e) an individual, except an individual who is required to be licensed or certified under this chapter, who states an opinion about the value of property in which the person has an ownership interest;
- (f) an individual who states an opinion of value if no consideration is paid or agreed to be paid for the opinion and no other party is reasonably expected to rely on the individual's appraisal expertise;
- (g) an individual, such as a researcher or a secretary, who does not render significant professional assistance, as defined by the board, in arriving at a real estate appraisal analysis, opinion, or conclusion; or
- (h) an attorney authorized to practice law in this state who, in the course of the attorney's practice, uses an appraisal report governed by this chapter or who states an opinion of the value of real estate.

(3) An opinion of value or report containing value conclusions exempt under Subsection (2) may not be referred to as an appraisal.

61-2b-5. Chapter administration.

The division shall administer and enforce the provisions of this chapter.

61-2b-6. Duties and powers of division.

(1) The division shall have the powers and duties listed in this Subsection (1).

- (a) The division shall:
 - i) receive applications for licensing and certification;
 - (ii) establish appropriate administrative procedures for the processing of applications for licensure or certification;

- (iii) issue licenses and certifications to qualified applicants pursuant to this chapter; and
 - (iv) maintain a registry of the names and addresses of individuals who are currently licensed or certified as appraisers under this chapter.
- (b) (i) The division shall require a trainee to notify the division that the trainee is acting in the capacity of a trainee earning experience for licensure.
- (ii) The board shall adopt rules in accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, for the trainee notification required by this Subsection (1)(b).
- (c) The division shall hold public hearings under the direction of the board.
- (d) The division may:
 - (i) solicit bids and enter into contracts with one or more educational testing services or organizations for the preparation of a bank of questions and answers approved by the board for licensing and certification examinations; and
 - (ii) administer or contract for the administration of licensing and certification examinations as may be required to carry out the division's responsibilities under this chapter.
- (e) The division shall provide administrative assistance to the board by providing to the board the facilities, equipment, supplies, and personnel that are required to enable the board to carry out the board's responsibilities under this chapter.
- (f) The division shall assist the board in upgrading and improving the quality of the education and examinations required under this chapter.
- (g) The division shall assist the board in improving the quality of the continuing education available to persons licensed and certified under this chapter.
- (h) The division shall assist the board with respect to the proper interpretation or explanation of the Uniform Standards of Professional Appraisal Practice as required by Section 61-2b-27 when an interpretation or explanation becomes necessary in the enforcement of this chapter.
- (i) The division shall establish fees in accordance with Section 63-38-3.2:
 - (i) for processing:
 - (A) trainee notifications;
 - (B) applications for licensing and certification; and
 - (C) registration of expert witnesses; and
 - (ii) for all other functions required or permitted by this chapter.
- (j) The division may:
 - (i) investigate complaints against:
 - (A) trainees; or
 - (B) persons licensed or certified under this chapter;
 - (ii) subpoena witnesses and the production of books, documents, records, and other papers;
 - (iii) administer oaths; and
 - (iv) take testimony and receive evidence concerning all matters within the division's jurisdiction.
- (k) The division may promote research and conduct studies relating to the profession of real estate appraising and sponsor real estate appraisal educational activities.
- (l) The division shall adopt, with the concurrence of the board, rules for the administration of this chapter pursuant to Title 63, Chapter 46a, Utah Administrative Rulemaking Act, that are

not inconsistent with this chapter or the constitution and laws of this state or of the United States.

(m) The division shall employ an appropriate staff to investigate allegations that persons licensed or certified under this chapter failed to comply with this chapter.

(n) The division may employ such other professional, clerical, and technical staff as may be necessary to properly administer the work of the division under this chapter.

(o) The division may make available, at a reasonable cost determined by the division, a list of the names and addresses of all persons licensed or certified by the division under this chapter to the extent the information is a public record under Title 63, Chapter 2, Government Records Access and Management Act.

(2) (a) The division shall register expert witnesses who are not otherwise licensed or certified under this chapter to appear in all administrative and judicial tax proceedings to provide evidence related to the valuation of real property that is assessed by the tax commission, provided that the:

(i) registration is limited to a specific proceeding;

(ii) registration is valid until the proceeding becomes final;

(iii) applicant pays a registration fee to the division;

(iv) applicant provides the applicant's name, address, occupation, and professional credentials; and

(v) applicant provides a notarized statement that:

(A) the applicant is competent to render an appraisal and to testify as an expert witness in the proceeding; and

(B) the appraisal and testimony to be offered shall be in accordance with the Uniform Standards of Professional Appraisal Practice adopted by the board.

(b) Subsection (2)(a) shall be effective for all administrative and judicial property tax proceedings related to the valuation of real property that is assessed by the tax commission, including those filed but which are not final as of May 3, 1994.

(3) The division shall be immune from any civil action or criminal prosecution for initiating or assisting in any lawful investigation of the actions of or participating in any disciplinary proceeding concerning a trainee or a person licensed, certified, or registered as an expert witness pursuant to this chapter if the action is taken without malicious intent and in the reasonable belief that the action was taken pursuant to the powers and duties vested in the members of the division under this chapter.

61-2b-7. Board established -- Composition -- Qualifications -- Meeting -- Chair -- Terms of office -- Expenses -- Quorum.

(1) (a) There is established a Real Estate Appraiser Licensing and Certification Board which shall consist of five regular members as follows:

(i) one state-licensed or state-certified appraiser who may be either a residential or general licensee or certificate holder;

(ii) one state-certified residential appraiser;

(iii) one state-certified general appraiser;

- (iv) one member who is certified as either a state-certified residential appraiser or a state-certified general appraiser; and
 - (v) one member of the general public.
 - (b) The term of the longest serving general public member of the board as of May 2, 2005 terminates May 2, 2005.
 - (c) A state-licensed or state-certified appraiser may be appointed as an alternate member of the board.
 - (d) The governor shall appoint all members of the board with the consent of the Senate.
- (2) (a) Except as required by Subsection (2)(b), as terms of current board members expire, the governor shall appoint each new member or reappointed member to a four-year term beginning on July 1.
- (b) Notwithstanding the requirements of Subsection (2)(a), the governor shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of board members are staggered so that approximately half of the board is appointed every two years.
- (c) Upon the expiration of a member's term, a member of the board shall continue to hold office until the appointment and qualification of the member's successor.
- (d) A person may not serve as a member of the board for more than two consecutive terms.
- (3) (a) When a vacancy occurs in the membership for any reason, the replacement shall be appointed for the unexpired term.
- (b) The governor may remove a board member for cause.
- (4) The public member of the board may not be licensed or certified under this chapter.
- (5) The board shall meet at least quarterly to conduct its business. Public notice shall be given for all board meetings.
- (6) The members of the board shall elect a chair annually from among the members to preside at board meetings.
- (7) (a) A member who is not a government employee shall receive no compensation or benefits for the member's services, but may receive per diem and expenses incurred in the performance of the member's official duties at the rates established by the Division of Finance under Sections 63A-3-106 and 63A-3-107.
- (b) A member may decline to receive per diem and expenses for the member's service.
- (8) (a) Three members of the board shall constitute a quorum for the transaction of business.
- (b) If a quorum of members is unavailable for any meeting, the alternate member of the board, if any, shall serve as a regular member of the board for that meeting if with the presence of the alternate member a quorum is present at the meeting.

61-2b-8. Duties of board.

The board shall provide technical assistance to the division relating to real estate appraisal standards and real estate appraiser qualifications and shall have the responsibilities, powers, and duties listed in this section.

- (1) The board shall:
 - (a) determine the experience, education, and examination requirements appropriate for persons licensed under this chapter;
 - (b) determine the experience, education, and examination requirements appropriate for persons certified under this chapter in compliance with the minimum requirements of Financial Institutions Reform, Recovery, and Enforcement Act of 1989, and consistent with the intent of this chapter;
 - (c) determine the appraisal related acts that may be performed by:
 - (i) a trainee on the basis of the trainee's education and experience;
 - (ii) clerical staff; and
 - (iii) a person who:
 - (A) does not hold a license or certification; and
 - (B) assists appraisers licensed or certified under this chapter in providing appraisal services or consultation services;
 - (d) determine the procedures for a trainee notifying the division that the trainee will assist persons licensed or certified under this chapter in providing appraisal services or consultation services; and
 - (e) develop programs to upgrade and improve the experience, education, and examinations as required under this chapter.
- (2)
 - (a) The experience, education, and examination requirements established by the board for persons licensed or certified under this chapter shall be the minimum criteria established by the Appraiser Qualification Board of the Appraisal Foundation, unless, after notice and a public hearing held in accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the board finds that the minimum criteria are not appropriate for state-licensed appraisers or state-certified appraisers in this state.
 - (b) If under Subsection (2)(a) the board makes a finding that the minimum criteria are not appropriate, the board shall recommend appropriate criteria to the Legislature.
- (3) The board shall:
 - (a) determine the continuing education requirements appropriate for the renewal of licenses and certifications issued under this chapter;
 - (b) develop programs to upgrade and improve continuing education; and
 - (c) recommend to the division available continuing education courses that meet the requirements of this chapter.
- (4)
 - (a) The board shall consider the proper interpretation or explanation of the Uniform Standards of Professional Appraisal Practice as required by Section 61-2b-27 when:
 - (i) an interpretation or explanation becomes necessary in the enforcement of this chapter; and
 - (ii) the Appraisal Standards Board of the Appraisal Foundation has not as yet issued an interpretation or explanation.

(b) If the conditions of Subsection (4)(a) are met, the board shall recommend to the division the appropriate interpretation or explanation that the division should adopt as a rule under this chapter.

(5) The board shall develop and establish or approve the examination specifications and the minimum score required to pass the examinations for licensure and certification.

(6) The board shall review the:

(a) bank of questions and answers that comprise the examination for persons licensed and certified under this chapter;

(b) procedure that is established for selecting individual questions from the bank of questions for use in each scheduled examination; and

(c) questions in the bank of questions and the related answers to determine whether they meet the examination specifications established by the board.

(7) (a) The board shall conduct administrative hearings, not delegated by the board to an administrative law judge, in connection with all disciplinary proceedings under Sections 61-2b-30 and 61-2b-31 concerning:

(i) a person licensed or certified under this chapter; and

(ii) the person's failure to comply with this chapter and the Uniform Standards of Professional Appraisal Practice as adopted under Section 61-2b-27.

(b) The board shall issue in each administrative hearing a decision that contains findings of fact and conclusions of law.

(c) When a determination is made that a person licensed or certified under this chapter has violated any provision of this chapter, the division shall implement disciplinary action determined by the board.

(8) The members of the board shall be immune from any civil action or criminal prosecution for any disciplinary proceeding concerning a person registered, licensed, or certified under this chapter if the action is taken without malicious intent and in the reasonable belief that the action taken was taken pursuant to the powers and duties vested in the members of the board under this chapter.

(9) The board shall require and pass upon proof necessary to determine the honesty, competency, integrity, and truthfulness of each applicant for original or renewal licensure or certification.

61-2b-9. Licensure or certification required -- Application.

Except as provided in Subsections 61-2b-3(2) and 61-2b-6(2), any individual who prepares or causes to be prepared an appraisal, an appraisal report, or a certified appraisal report in this state, in order to lawfully engage in such activity in this state, shall:

(1) make application in writing for licensure or certification as provided in this chapter in the form as the division may prescribe; and

(2) become licensed or certified under this chapter.

61-2b-10 (Superseded 01/01/08). State-licensed appraiser -- Authority and qualifications.

(1) A state-licensed appraiser is authorized to appraise complex and noncomplex 1-4 family residential units in this state having a transaction value permitted under the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, and related federal regulations.

(2) A state-licensed appraiser is also authorized to appraise vacant or unimproved land having a transaction value permitted under the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, and related federal regulations that is utilized for 1-4 family purposes or for which the highest and best use is 1-4 family purposes and subdivisions for which a development analysis/appraisal is not necessary.

(3) A state-licensed appraiser may not issue a certified appraisal report.

(4) To qualify as a state-licensed appraiser, an applicant must:

- (a) be of good moral character;
- (b) pass the licensing examination with a satisfactory score as determined by the board;
- (c) successfully complete not less than 90 classroom hours in courses of study approved by the board that relate to:
 - (i) real estate appraisal;
 - (ii) the Uniform Standards of Professional Appraisal Practice; and
 - (iii) ethical rules to be observed by a real estate appraiser as required by Section 61-2b-27; and
- (d) possess the minimum number of hours of experience in real property appraisal as established by rule.

(5) The courses of study under Subsection (4)(c) shall be conducted by:

- (a) an accredited university, college, or junior college;
- (b) an approved appraisal society, institute, or association; or
- (c) such other school as the board may approve.

(6) The board shall require and pass upon proof necessary to determine the honesty, competency, integrity, and truthfulness of each applicant.

61-2b-10.5. State-registered appraisers -- Authority -- Transition to state-licensed or state-certified appraisers.

(1) Any person who was registered as a state-registered appraiser under this chapter prior to May 3, 1999, shall have the same authority as a state-licensed appraiser under this chapter for as long as the registration of that person remains current but in no event after May 3, 2001.

(2) No new registrations shall be issued by the division except as provided in Subsection 61-2b-6(2).

(3) The division may renew registrations of persons who were previously registered as state-registered appraisers under this chapter until May 3, 2001. All registrations renewed under this Subsection (3) shall expire on May 3, 2001.

(4) Any person who was registered as a state-registered appraiser under this chapter prior to May 3, 1999, may have that registration converted to a license or certification if that person meets the requirements for licensure or certification under this chapter.

61-2b-11. Curriculum to be determined by board.

In making its determinations with respect to the courses of study required by Section 61-2b-10, the board shall give weight to courses which teach one or more of the following:

(1) knowledge of technical terms commonly used in or related to real estate appraising, appraisal report writing, and economic concepts applicable to real estate;

(2) an understanding of the basic principles of land economics, the basic principles of the real estate appraisal process, and the problems likely to be encountered in gathering, interpreting, and processing the data required in the real estate appraisal process;

(3) an understanding of the standards for the development and communication of real estate appraisals as provided in this chapter;

(4) an understanding of the ethical rules that a real estate appraiser is required to observe;

(5) knowledge of theories of depreciation, cost estimating, methods of capitalization, and the mathematics of real estate appraisal;

(6) an understanding of basic real estate law; and

(7) an understanding of the types of misconduct for which disciplinary proceedings may be initiated against a person licensed under this chapter.

61-2b-13. State-certified appraisers -- Authority.

(1) A state-certified residential appraiser is authorized to appraise all types of real estate which a state-licensed appraiser is authorized to appraise.

(2) A state-certified residential appraiser is also authorized to appraise 1-4 unit residential real estate without regard to transaction value or complexity.

(3) A state-certified residential appraiser is not authorized to appraise subdivisions for which a development analysis/appraisal is necessary.

(4) A state-certified general appraiser is authorized to appraise all types of real estate and real property.

61-2b-14 (Superseded 01/01/08). State-certified residential appraiser -- Application.

- (1) Each applicant for certification as a residential appraiser shall provide to the division evidence:
 - (a) of completion of the certification examination with a satisfactory score as determined by the board;
 - (b) of satisfactory completion of not less than 120 classroom hours of education or their equivalent as required under this chapter;
 - (c) that the applicant possesses the minimum number of hours of experience in real property appraisal as established by rule; and
 - (d) that the experience required under Subsection (1)(c), or the equivalent, was acquired within a reasonable period, as determined by the board, immediately preceding the filing of the application for certification.
- (2) Upon request by the division, the applicant shall also make available to the division for examination, a detailed listing of the real estate appraisal reports, or file memoranda for each year for which experience is claimed and a sample of appraisal reports which the applicant has prepared in the course of his appraisal practice.
- (3)
 - (a) To meet the 120 classroom hours required by Subsection (1)(b), an applicant must successfully complete courses of study approved by the board which relate to real estate appraisal theory and practice, including a course of study approved by the board which relates specifically to the Uniform Standards of Professional Appraisal Practice adopted under Section 61-2b-27, to the ethical rules to be observed by a real estate appraiser, and to the provisions of this chapter.
 - (b) The courses of study referred to in Subsection (3)(a) must be conducted by:
 - (i) an accredited university, college, or junior college;
 - (ii) an approved appraisal society, institute, or association; or
 - (iii) such other school as may be approved by the board.

61-2b-15 (Superseded 01/01/08). State-certified general appraiser -- Application -- Qualifications.

- (1) Each applicant for certification as a general appraiser shall provide to the division evidence:
 - (a) of completion of the certification examination with a satisfactory score as determined by the board;
 - (b) of satisfactory completion of not less than 180 classroom hours of education or their equivalent as required under this chapter;
 - (c) that the applicant possesses the minimum number of hours of experience in real property appraisal as established by rule; and
 - (d) that the experience required under Subsection (1)(c), or the equivalent, was acquired within a reasonable period, as determined by the board, immediately preceding the filing of the application for certification.

(2) To meet the 180 classroom hours required by Subsection (1)(b), an applicant must successfully complete courses of study approved by the board which relate to real estate appraisal theory and practice, including a course of study approved by the board which relates specifically to the Uniform Standards of Professional Appraisal Practice adopted under Section 61-2b-27, to the ethical rules to be observed by a real estate appraiser, and to the provisions of this chapter.

61-2b-15.6. Conversion of senior appraisers to state-licensed appraisers.

(1) Any person who was registered under this chapter as a senior appraiser prior to May 3, 1999, shall automatically have his registration converted to a license as a state-licensed appraiser.

(2) The division shall issue licenses to all persons qualified under Subsection (1).

(3) The division may not issue any new registrations as senior appraisers.

61-2b-16. Certification and licensing examinations.

(1) An original certification or license may only be issued to a person who is of good moral character and has demonstrated through a written examination process that he possesses:

- (a) knowledge of technical terms commonly used in or related to real estate appraising, appraisal report writing, and economic concepts applicable to real estate;
- (b) an understanding of the basic principles of land economics, the basic principles of the real estate appraisal process, and the problems likely to be encountered in gathering, interpreting, and processing the data that is required in the real estate appraisal process;
- (c) an understanding of the standards for the development and communication of real estate appraisals as provided in this chapter;
- (d) an understanding of the ethical rules that a real estate appraiser is required to observe;
- (e) knowledge of theories of depreciation, cost estimating, methods of capitalization, and the mathematics of real estate appraisal that are appropriate for the classification of certification or licensure for which the applicant has applied;
- (f) knowledge of other principles and procedures appropriate for the classification of certification or licensure for which the applicant has applied;
- (g) an understanding of basic real estate law; and
- (h) an understanding of the types of misconduct for which disciplinary proceedings may be initiated against a person certified or licensed under this chapter.

(2) The board shall require and pass upon proof necessary to determine the honesty, competency, integrity, and truthfulness of each applicant.

61-2b-17. State-certified and state-licensed appraisers -- Restrictions on use of terms -- Conduct prohibited or required -- Trainee.

(1) (a) The terms "state-certified general appraiser," "state-certified residential appraiser," and "state-licensed appraiser":

- (i) may only be used to refer to an individual who is certified or licensed under this chapter; and
 - (ii) may not be used following, or immediately in connection with, the name or signature of a firm, partnership, corporation, or group, or in any manner that it might be interpreted as referring to a firm, partnership, corporation, group, or to anyone other than the individual who is certified or licensed under this chapter.
 - (b) The requirement of this Subsection (1) may not be construed to prevent a state-certified general appraiser from signing an appraisal report on behalf of a corporation, partnership, firm, or group practice if it is clear that only the individual is certified and that the corporation, partnership, firm, or group practice is not certified.
 - (c) Except as provided in Section 61-2b-25, a certificate or license may not be issued under this chapter to a corporation, partnership, firm, or group.
- (2) (a) A person other than a state-certified general appraiser or state-certified residential appraiser, may not assume or use any title, designation, or abbreviation likely to create the impression of certification in this state as a real estate appraiser.
- (b) A person other than a state-licensed appraiser may not assume or use any title, designation, or abbreviation likely to create the impression of licensure in this state as a real estate appraiser.
- (3) (a) Only an individual who has qualified under the certification requirements of Sections 61-2b-14 and 61-2b-15 is authorized to prepare and sign a certified appraisal report relating to real estate or real property in this state.
- (b) If a certified appraisal report is prepared and signed by a state-certified residential appraiser, the certified appraisal report shall state, immediately following the signature on the report, "State-Certified Residential Appraiser."
- (c) If a certified appraisal report is prepared and signed by a state-certified general appraiser, the certified appraisal report shall state, immediately following the signature on the report, "State-Certified General Appraiser."
- (d) An appraisal report prepared by a state-licensed appraiser shall state, immediately following the signature on the report, "State-Licensed Appraiser."
- (e) When signing a certified appraisal report, a state-certified appraiser shall also place on the report, immediately below the state-certified appraiser's signature the state-certified appraiser's certificate number and its expiration date.
- (f) A state-certified residential appraiser may not prepare a certified appraisal report outside the state-certified residential appraiser's authority as defined in Section 61-2b-13.
- (g) A state-licensed appraiser who assisted in the preparation of a certified appraisal report is authorized to cosign the certified appraisal report.
- (4) A person who has not qualified under either Section 61-2b-14 or 61-2b-15 may not describe or refer to any appraisal or appraisal report relating to real estate or real property in this state by the terms "certified appraisal" or "certified appraisal report."
- (5) If a trainee assists a state-licensed appraiser or a state-certified appraiser in the preparation of an appraisal report, the appraisal report shall disclose:
- (a) the trainee's name; and

- (b) the extent to which the trainee assists in the preparation of the appraisal report.

61-2b-18. Application for certification or licensure -- Registration as an expert witness.

(1) An application for the following shall be sent to the division on forms approved by the division:

- (a) original certification or licensure;
- (b) registration as an expert witness; and
- (c) renewal of certification or licensure.

(2) The payment of the appropriate fee, as fixed by the division with the concurrence of the board in accordance with Section 63-38-3.2, must accompany an application for:

- (a) registration as an expert witness;
- (b) original certification or licensure; and
- (c) renewal of certification or licensure.

(3) At the time of filing an application described in Subsection (1), each applicant shall:

- (a) sign a pledge to comply with the Uniform Standards of Professional Appraisal Practice and the ethical rules to be observed by an appraiser that are established under Section 61-2b-27 for certified or licensed appraisers or registered expert witnesses under this chapter; and
- (b) certify that the applicant understands the types of misconduct, as set forth in this chapter, for which disciplinary proceedings may be initiated against persons certified or licensed under this chapter.

61-2b-19. Expiration of license or certification.

(1) The initial license or certification issued under this chapter expires on the expiration date indicated on the license or certificate.

(2) A renewal license or certification issued under this chapter expires two years from the date of issuance.

(3) The scheduled expiration date of the license or certification shall appear on the license or certification document and no other notice of its expiration need be given to its holder.

61-2b-20. Renewal of license or certification.

(1) To obtain a renewal of a license or certification under this chapter, the holder of a current, valid license or certification shall, in compliance with procedures established by the division and the board, make application and pay the prescribed fee to the division prior to the expiration date of the license or certification then held.

(2) The application for renewal of a license or certification shall be accompanied by evidence in the form prescribed by the division of having completed the continuing education requirements for renewal specified in this chapter.

- (3) A license or certification expires if it is not renewed on or before its expiration date.
- (a) For a period of 30 days after the expiration date, a license or certification may be reinstated upon:
 - (i) payment of a renewal fee and a late fee determined by the division and the board; and
 - (ii) satisfying the continuing education requirements specified in Section 61-2b-40.
 - (b) After the 30-day period described in Subsection (3)(a), and until six months after the expiration date, the license or certification may be reinstated by:
 - (i) paying a renewal fee and a reinstatement fee determined by the division and the board; and
 - (ii) satisfying the continuing education requirements specified in Section 61-2b-40.
- (4) A person who does not renew that person's license or certification within six months after the expiration date shall be relicensed or recertified as prescribed for an original application.

61-2b-21. Denial of licensure or certification.

The division may, upon compliance with Title 63, Chapter 46b, Administrative Procedures Act, deny the issuance of a license or certification to an applicant on any of the grounds enumerated in this chapter.

61-2b-22. Licensing, certification, or expert witness requirements for nonresidents -- Temporary license or certificate -- Revocation.

- (1) Each applicant for registration as an expert witness, licensure, or certification under this chapter who is not a resident of this state shall submit with the applicant's application an irrevocable consent that service of process upon the applicant may be made by delivery of the process to the director of the division if, in an action against the applicant in a court of this state arising out of the applicant's activities as a real estate appraiser in this state, the plaintiff cannot, in the exercise of due diligence, obtain personal service upon the applicant.
- (2) A nonresident of this state who has complied with the provisions of Subsection (1) may obtain a registration as an expert witness, a license, or a certification in this state by complying with all of the provisions of this chapter relating to registration of expert witnesses, licensure, or certification.
- (3) A nonresident of this state who has complied with the provisions of Subsection (1) may obtain a temporary license or certification to perform a contract relating to the appraisal of real estate or real property in this state. To qualify for the issuance of a temporary license or certification, an applicant must:
- (a) submit an application on a form approved by the division;
 - (b) submit evidence that the applicant is licensed or certified in the state in which the applicant primarily conducts business;
 - (c) certify that no formal charges alleging violation of state appraisal licensing or certification laws have been filed against the applicant by the applicant's state of domicile; and

- (d) pay an application fee in an amount established by the division with the concurrence of the board.
- (4) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the division, with the concurrence of the board, shall make rules establishing the duration of a temporary permit and procedures for renewal of a temporary permit.
- (5) A temporary permit issued under this section shall be immediately and automatically revoked if the appraiser's license or certification is suspended or revoked in the appraiser's state of domicile.
- (6) Any person whose license or certification has been revoked under Subsection (5) is entitled to a postrevocation hearing to challenge the revocation. The hearing shall be conducted in accordance with Title 63, Chapter 46b, Administrative Procedures Act.

61-2b-23. Reciprocal licensure.

An applicant for licensure or certification in this state who is licensed or certified under the laws of any other state, territory, or district may obtain a license or certification in this state upon the terms and conditions determined by the division and the board, if, in the determination of the division and the board:

- (1) the state, territory, or the District of Columbia is considered to have substantially equivalent licensing laws for real estate appraisers;
- (2) the laws of that state, territory, or the District of Columbia accord substantially equal reciprocal rights to a person licensed or certified and in good standing in this state; and
- (3) no formal charges alleging violation of state appraisal licensing or certification laws have been filed against the applicant by the applicant's state of domicile.

61-2b-24. Expert witness, licensing, or certification documents -- Assigned number to be used on contracts -- Surrender of documents upon suspension.

- (1) The division shall issue to each person registered as an expert witness, licensed, or certified under this chapter a document:
 - (a) stating that the person is registered as an expert witness, licensed, or certified under this chapter; and
 - (b) specifying the expiration date of the license or certification.
- (2)
 - (a) A registration as an expert witness, a license, or a certification document issued under this chapter shall bear a registration, license, or certification number assigned by the division.
 - (b) The assigned number shall be used in all statements of qualification, contracts, or other instruments used by the registration, license, or certificate holder when reference is made to his status as being registered, licensed, or certified under this chapter.

- (3) (a) Licensing, certification, and expert witness registration documents remain the property of the state.
- (b) Upon any suspension or revocation of a license or certification under this chapter, the individual holding the respective documents shall immediately return the document to the division.

61-2b-25. Other law unaffected.

Nothing contained in this chapter shall be considered to prohibit any person registered, licensed, or certified under this chapter from engaging in the practice of real estate appraising as a professional corporation or a limited liability company in accordance with the provisions of Title 16, Chapter 11, Professional Corporation Act or Title 48, Chapter 2b, Utah Limited Liability Company Act.

61-2b-26. Principal place of business -- Display of documents -- Notify of changes -- Nonresidents.

- (1) Each person licensed or certified under this chapter shall designate and maintain a principal place of business and shall conspicuously display the person's license or certification.
- (2) (a) Upon any change of a person's principal business location or home address, a person licensed or certified under this chapter shall promptly send the division a signed statement notifying the division of any change within ten business days of the change.
- (b) Upon any change of an expert witness's address listed on the expert witness's registration application, the expert witness shall promptly send the division a signed statement notifying the division of any change within ten business days of the change.
- (3) A nonresident licensee or certificate holder, or a nonresident registered as an expert witness is not required to maintain a place of business in this state if the nonresident maintains an active place of business in the nonresident's state of domicile.

61-2b-27. Professional conduct -- Uniform standards.

- (1) (a) Each person licensed, certified, or registered as an expert witness under this chapter must comply with generally accepted standards of professional appraisal practice and generally accepted ethical rules to be observed by a real estate appraiser.
- (b) Generally accepted standards of professional appraisal practice are evidenced by the Uniform Standards of Professional Appraisal Practice promulgated by the Appraisal Foundation.
- (c) After a public hearing held in accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the board shall adopt and may make modifications of or additions to the Uniform Standards of Professional Appraisal Practice as the board considers appropriate to comply with the Financial Institutions Reform, Recovery, and Enforcement Act of 1989.
- (2) If the Appraisal Standards Board of the Appraisal Foundation modifies the Uniform Standards of Professional Appraisal Practice, issues supplemental appraisal standards which it

considers appropriate for residential real estate appraisers or for general real estate appraisers, or issues ethical rules to be observed by a real estate appraiser and requests the board to consider the adoption of the modified or supplemental standards or ethical rules, the board shall schedule a public hearing pursuant to Title 63, Chapter 46a, Utah Administrative Rulemaking Act, for the purpose of deciding whether or not the board should require the modified or supplemental standards or the ethical rules to be observed by persons licensed, certified, or registered as an expert witness under this chapter.

(3) If, after the notice and public hearing, the board finds that the modified or supplemental standards or the ethical rules issued by the Appraisal Standards Board of the Appraisal Foundation are appropriate for persons licensed, certified, or registered as an expert witness under this chapter, the board shall recommend rules requiring all persons licensed, certified, or registered as an expert witness under this chapter to observe the modified or supplemental standards or the ethical rules.

61-2b-28. Enforcement -- Investigation -- Orders -- Hearings.

(1) The division may investigate the actions of any person licensed or certified under this chapter, an applicant for licensure or certification, or an applicant for renewal of licensure or certification, and may initiate an agency action in accordance with Title 63, Chapter 46b, Administrative Procedures Act, to:

- (a) impose disciplinary action on a person licensed or certified under this chapter; or
- (b) deny issuance to an applicant of an original or renewal license or certification.

(2) (a) The division may subpoena witnesses, take evidence, and require by subpoena duces tecum the production of books, papers, contracts, records, other documents, or information relevant to the investigation described in Subsection (1).

(b) The division may serve subpoenas by certified mail.

(c) Each failure to respond to a subpoena by a person licensed or certified under this chapter is considered to be a separate violation of this chapter.

(3) (a) If the director has reason to believe that any person has been or is engaging in acts constituting violations of this chapter, and if it appears to the director that it would be in the public interest to stop these acts, the director shall issue and serve upon the person an order directing that person to cease and desist from those acts.

(b) Within ten days after receiving the order, the person upon whom the order is served may request an adjudicative proceeding.

(c) Pending the hearing, the cease and desist order shall remain in effect.

(d) If a request for hearing is made, the division shall follow the procedures and requirements of Title 63, Chapter 46b, Administrative Procedures Act.

(4) (a) After the hearing, if the board agrees that the acts of the person violate this chapter, the board shall issue an order making the cease and desist order permanent.

(b) If no hearing is requested and if the person fails to cease the acts, or after discontinuing the acts, again commences the acts, the director shall commence an action in the name of the

Department of Commerce and Division of Real Estate, in the district court in the county in which the acts occurred or where the person resides or carries on business, to enjoin and restrain the person from violating this chapter.

(5) The remedies and action provided in this section do not limit, interfere with, or prevent the prosecution of any other remedies or actions including criminal proceedings.

61-2b-29. Disciplinary action -- Grounds.

(1) The board may order disciplinary action against any person licensed or certified under this chapter. On the basis of any of the grounds listed in Subsection (2) for disciplinary action, board action may include:

- (a) revoking, suspending, or placing a person's license or certification on probation;
- (b) denying a person's original or renewal license or certification;
- (c) ordering remedial education; and
- (d) imposing a civil penalty upon a person not to exceed \$1,000 per violation.

(2) The following are grounds for disciplinary action under this section:

- (a) procuring or attempting to procure a license or certification under this chapter by fraud or by making a false statement, submitting false information, or making a material misrepresentation in an application filed with the division;
- (b) paying money or attempting to pay money other than the fees provided for by this chapter to any member or employee of the division to procure a license or certification under this chapter;
- (c) an act or omission in the practice of real estate appraising that constitutes dishonesty, fraud, or misrepresentation;
- (d) entry of a judgment against a licensee or certificate holder on grounds of fraud, misrepresentation, or deceit in the making of an appraisal of real estate;
- (e) a guilty plea to a criminal offense involving moral turpitude that is held in abeyance, or a conviction, including a conviction based upon a plea of guilty or nolo contendere, of a criminal offense involving moral turpitude;
- (f) engaging in the business of real estate appraising under an assumed or fictitious name not properly registered in this state;
- (g) paying a finder's fee or a referral fee to a person not licensed or certified under this chapter in connection with an appraisal of real estate or real property in this state;
- (h) making a false or misleading statement in that portion of a written appraisal report that deals with professional qualifications or in any testimony concerning professional qualifications;
- (i) violating or disregarding any provision of this chapter, an order of the board, or any rule issued under this chapter;
- (j) violation of the confidential nature of governmental records to which a person registered, licensed, or certified under this chapter gained access through employment or engagement as an appraiser by a governmental agency;
- (k) acceptance of a contingent fee for performing an appraisal as defined in Subsection 61-2b-2(1)(a) if in fact the fee is or was contingent upon the appraiser reporting a

predetermined analysis, opinion, or conclusion or is or was contingent upon the analysis, opinion, conclusion, or valuation reached or upon the consequences resulting from the appraisal assignment;

(l) unprofessional conduct as defined by statute or rule; or

(m) any other conduct that constitutes dishonest dealing.

61-2b-30. Compliance with Administrative Procedures Act.

The division and board shall comply with Title 63, Chapter 46b, the Administrative Procedures Act, in conducting any disciplinary proceedings under this chapter.

61-2b-30.5. Reinstatement of license, certification -- Expert witness -- Trainee.

(1) An individual who has had an appraiser registration, license, or certification revoked under this chapter may not apply for renewal of that registration, license, or certification, but may apply for licensure or certification as prescribed for an original license or certification subject to the limitations in Subsection (2).

(2) An applicant for licensure, certification, or for registration as an expert witness under Subsection (1):

(a) may not apply for licensure or certification until at least five years after the date of revocation of the applicant's original license or certification; and

(b) is not entitled to credit for experience gained prior to the date of revocation in determining whether the applicant meets the experience requirement for licensure or certification.

(3) A person whose license or certification is revoked may not act as a trainee until at least four years after the day on which the person's license or certification is revoked.

61-2b-31. Disciplinary hearing process.

(1) Before disciplinary action may be taken by the board against a licensee or certificate holder, the division shall notify the licensee or certificate holder and commence an adjudicative proceeding.

(2) If, after the hearing, the board determines that the licensee or certificate holder has violated this chapter, the board may impose disciplinary action by written order as provided in Section 61-2b-29.

(3) The board may conduct hearings with the assistance of an administrative law judge or may delegate hearings to an administrative law judge. If the hearing is delegated by the board to an administrative law judge, the judge shall submit written findings of fact, conclusions of law, and a recommended order to the board for its consideration.

- (4) (a) Any applicant, licensee, certificate holder, or person aggrieved, including the complainant, may obtain judicial review of any adverse ruling, order, or decision of the board. Any appeal shall be governed by the Utah Rules of Appellate Procedure.
- (b) If the applicant, licensee, or certificate holder prevails in the appeal and the court finds that the state action was undertaken without substantial justification, the court may award reasonable litigation expenses to the applicant, licensee, or certificate holder as provided under Title 78, Chapter 27a, Small Business Equal Access to Justice Act.

61-2b-32. Licensure or certification prerequisite to suit for compensation.

No person engaged in the business of real estate appraising in this state or acting in the capacity of a real estate appraiser in this state may bring or maintain any action in any court of this state to collect compensation for the performance of real estate appraisal services for which registration, licensure, or certification is required by this chapter without alleging and proving that he was the holder of a valid registration, license, or certification in this state at all times during the performance of such services.

61-2b-33. Criminal penalty -- Licensure or certification following conviction.

- (1) Any person required by this chapter to be licensed or certified who engages in real estate appraisal activity in this state without obtaining a license or certification or who violates any provision of this chapter:
- (a) is guilty of a class B misdemeanor punishable by a \$1,000 fine and up to six months in jail; and
 - (b) shall be ineligible to apply for a license or certificate for a period of one year from the date of the person's conviction of the offense.
- (2) The division, in its discretion, may grant a license or certification to a person ineligible pursuant to Subsection (1) within the one-year period upon application and after an administrative hearing.

61-2b-34. Recordkeeping requirements.

- (1) Subject to Subsection (2), a person licensed or certified under this chapter and a person required to be registered under this chapter before May 3, 2001, shall retain for a period of five years the original or a true copy of:
- (a) each written contract engaging the person's services for real estate or real property appraisal work;
 - (b) each appraisal report prepared or signed by the person; and
 - (c) all supporting data assembled and formulated by the appraiser in preparing each appraisal report.
- (2) The five-year period for retention of records is applicable to each engagement of the services of the appraiser and begins upon the date of the delivery of each appraisal report to the client unless, within the five-year period, the appraiser is notified that the appraisal or the appraisal report is involved in litigation, in which event the records must be maintained for the longer of:

- (a) five years; or
- (b) two years following the date of the final disposition of the litigation.
- (3) Upon reasonable notice, a person licensed or certified under this chapter and a person required to be registered under this chapter before May 3, 2001, shall make all records required to be maintained under this chapter available to the division for inspection and copying.

61-2b-36. Contingent fees.

- (1) A person licensed or certified under this chapter who enters into an agreement to perform an appraisal as defined in Subsection 61-2b-2(1)(a) may not accept a contingent fee.
- (2) A person licensed or certified under this chapter who enters into an agreement to provide consultation services as defined in Subsection 61-2b-2(1)(f)(i)(A) may be paid a fixed fee or a contingent fee.
- (3) (a) If a person licensed or certified under this chapter enters into an agreement to perform consultation services for a contingent fee, this fact shall be clearly stated in each oral statement.
(b) In addition to the requirements of Subsection (3)(a), if a person licensed or certified under this chapter prepares a written consultation report or summary, letter of transmittal, or certification statement for a contingent fee, the person shall clearly state in the report, summary, letter of transmittal, or certification statement that the report is prepared under a contingent fee arrangement.

61-2b-37. Division service fees -- Federal registry fees.

- (1) The division, with the concurrence of the board, shall establish and collect fees in accordance with Section 63-38-3.2 for its services under this chapter.
- (2) The division shall collect the annual registry fee established by the Federal Financial Institutions Examinations Council from those certificate holders who seek to perform appraisals in federally related transactions. The division shall transmit the fees to the federal Appraisal Subcommittee at least annually.

61-2b-38. Division to publish roster of appraisers.

The division shall prepare and issue at least once each calendar year a roster of appraisers containing the information required by the Federal Financial Institutions Examination Council. The division shall transmit the roster to the Federal Financial Institutions Examinations Council at least annually.

61-2b-39. License or certification history.

The division may, upon payment of a fee in an amount specified in rule, issue to any person a verified license history of:

- (1) any person licensed or certified under this chapter; or
- (2) any person previously registered, licensed, or certified under this chapter.

61-2b-40. Continuing education requirements.

(1) As a prerequisite to renewal of a license or certification, the applicant for renewal shall present evidence satisfactory to the division of having met the continuing education requirements of this section.

(2) For any person licensed or certified under this chapter, the continuing education requirement for renewal of licensure or certification shall be the completion by the applicant, during the two-year period immediately preceding the filing of an application for renewal, of not less than 28 classroom hours of instruction in courses or seminars that have received the approval of the board.

(3) The division may adopt rules for the implementation of this section to assure that each person renewing that person's license or certification under this chapter has a working knowledge of current real estate appraisal theories, practices, and techniques that will enable the person to provide competent real estate appraisal services to the members of the public with whom that person deals in a professional relationship under the authority of that person's license or certificate.

(4) An amendment or repeal of a rule adopted by the division under this section shall not operate to deprive a person of credit toward renewal of that person's license or certification for any course of instruction that is successfully completed by the applicant prior to the date of the amendment or repeal of the rule.

(5) In lieu of meeting the requirements set forth in Subsection (2) and applicable rules, an applicant for renewal may satisfy all or part of the continuing education requirements by presenting evidence of the following:

- (a) completion of an educational program of study determined by the board to be equivalent, for continuing education purposes, to courses or seminars approved by the board; or
- (b) participation other than as a student in educational processes and programs approved by the board that relate to real property appraisal theory, practices, or techniques including teaching, program development, and preparation of textbooks, monographs, articles, and other instructional materials.

(6) The board shall develop and propose to the division rules for the implementation of this section to assure that a person who renews that person's license or certification has a working knowledge of current real estate appraisal theories, practices, and techniques that will enable the person to provide competent real estate appraisal services to the members of the public with whom that person deals in a professional relationship under the authority of that person's license or certification. These rules shall prescribe:

- (a) policies and procedures to be followed in obtaining board approval of courses of instruction and seminars;

- (b) standards, policies, and procedures to be used by the division in evaluating an applicant's claims of equivalency; and
- (c) standards, monitoring methods, and systems for recording attendance to be employed by course and seminar sponsors as a prerequisite to division approval of courses and seminars for credit.

- (7) (a) A person whose license or certification has been revoked or suspended as the result of a disciplinary action taken by the board may not apply for reinstatement unless the person presents evidence of completion of the continuing education requirement that is provided in this chapter for renewal.
- (b) The continuing education required under Subsection (7)(a) shall not be imposed upon an applicant for reinstatement who has been required by the division to successfully complete the examination for licensure or certification required by Section 61-2b-20 as a condition to reinstatement.

61-2b-41. Consultation reports -- Restrictions on use of terms.

A person who prepares a written or oral consultation report may not refer to the consultation report as an appraisal, an appraisal report, or in any manner that may be interpreted as referring to an appraisal or an appraisal report.